

# House Study Bill 558

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON COMMERCE,  
REGULATION AND LABOR BILL BY  
CHAIRPERSON JENKINS)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the provision of consumer loans including  
2 requiring certain disclosures for delayed deposit services and  
3 title loans, providing for the licensing of credit union  
4 service organizations to provide delayed deposit services, and  
5 providing for interest rates by supervised financial  
6 organizations when engaging in delayed deposit services.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 5618HC 81  
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1 1 Section 1. Section 524.802, Code 2005, is amended by  
1 2 adding the following new subsection:  
1 3 NEW SUBSECTION. 13A. Act as a delayed deposit services  
1 4 business as defined in section 533D.2.  
1 5 Sec. 2. Section 533.4, Code 2005, is amended by adding the  
1 6 following new subsection:  
1 7 NEW SUBSECTION. 29. Act as a delayed deposit services  
1 8 business as defined in section 533D.2.  
1 9 Sec. 3. Section 533D.2, Code 2005, is amended by adding  
1 10 the following new subsection:  
1 11 NEW SUBSECTION. 1A. "Credit union service organization"  
1 12 means an organization, corporation, or association whose  
1 13 membership or ownership is primarily confined or restricted to  
1 14 credit unions or organizations of credit unions and whose  
1 15 purpose is primarily designed to provide services to credit  
1 16 unions, organizations of credit unions, or credit union  
1 17 members.  
1 18 Sec. 4. Section 533D.2, subsection 5, Code 2005, is  
1 19 amended to read as follows:  
1 20 5. "Superintendent" means the any of the following:  
1 21 a. The superintendent of credit unions for licensees which  
1 22 are credit union service organizations.  
1 23 b. The superintendent of credit unions for credit unions  
1 24 acting as delayed deposit services businesses.  
1 25 c. The superintendent of savings and loan associations for  
1 26 savings and loan associations acting as delayed deposit  
1 27 services businesses.  
1 28 d. The superintendent of banking for banks and other  
1 29 supervised financial institutions that are not a credit union,  
1 30 credit union service organization, or savings and loan  
1 31 association acting as delayed deposit services businesses.  
1 32 e. The superintendent of banking for all other licensees  
1 33 under this chapter.  
1 34 Sec. 5. Section 533D.3, subsection 1, Code 2005, is  
1 35 amended to read as follows:  
2 1 1. Except as provided in section 533D.17, a person shall  
2 2 not operate a delayed deposit services business in this state  
2 3 unless the person is licensed by the superintendent as  
2 4 provided in this chapter.  
2 5 Sec. 6. Section 533D.9, Code 2005, is amended by adding  
2 6 the following new subsection:  
2 7 NEW SUBSECTION. 2A. In the written notice required by  
2 8 subsection 2, the licensee shall require the maker of the  
2 9 check to initial by the disclosure of the fee to be charged  
2 10 for the transaction and by the disclosure of the annual  
2 11 percentage rate.  
2 12 Sec. 7. Section 533D.16, Code 2005, is amended to read as  
2 13 follows:  
2 14 533D.16 APPLICABILITY.

2 15 1. This Except as provided in section 533D.17, this  
2 16 chapter does not apply to a bank incorporated under the  
2 17 provisions of any state or federal law, a savings and loan  
2 18 association incorporated under the provisions of any state or  
2 19 federal law, a credit union organized under the provisions of  
2 20 any state or federal law, a corporation licensed as an  
2 21 industrial loan company under chapter 536A, or an affiliate of  
2 22 a bank, savings and loan association, credit union, or  
2 23 industrial loan company.

2 24 2. Notwithstanding subsection 1, this chapter applies to a  
2 25 credit union service organization.

2 26 Sec. 8. NEW SECTION. 533D.17 FINANCIAL ORGANIZATIONS ==  
2 27 RULES.

2 28 Notwithstanding section 533D.16, the superintendent shall  
2 29 adopt rules to implement and make applicable the fee  
2 30 restrictions, required disclosures, and prohibited acts  
2 31 contained in sections 533D.9 and 533D.10 to any supervised  
2 32 financial organization, as defined in section 537.1301, acting  
2 33 as a delayed deposit services business in this state with  
2 34 regard to transactions of delayed deposit services provided by  
2 35 the supervised financial organization.

3 1 Sec. 9. Section 534.201, Code 2005, is amended by adding  
3 2 the following new unnumbered paragraph:

3 3 NEW UNNUMBERED PARAGRAPH. An association may act as a  
3 4 delayed deposit services business as defined in section  
3 5 533D.2.

3 6 Sec. 10. Section 537.2401, subsection 1, Code 2005, is  
3 7 amended to read as follows:

3 8 1. Except as provided with respect to a finance charge for  
3 9 loans pursuant to open end credit under section 537.2402, a  
3 10 lender may contract for and receive a finance charge not  
3 11 exceeding the maximum charge permitted by the laws of this  
3 12 state or of the United States for similar lenders, and, in  
3 13 addition, with respect to a consumer loan, a supervised  
3 14 financial organization or a mortgage lender may contract for  
3 15 and receive a finance charge, calculated according to the  
3 16 actuarial method, not exceeding twenty-one percent per year on  
3 17 the unpaid balance of the amount financed. However, a

3 18 supervised financial organization may contract for and receive  
3 19 a finance charge exceeding twenty-one percent per year on the  
3 20 unpaid balance of the amount financed for transactions  
3 21 conducted pursuant to delayed deposit services provided  
3 22 pursuant to chapter 533D. This subsection does not prohibit a

3 23 lender from contracting for and receiving a finance charge  
3 24 exceeding twenty-one percent per year on the unpaid balance of  
3 25 the amount financed on consumer loans if authorized by other  
3 26 provisions of the law.

3 27 Sec. 11. NEW SECTION. 537.3213 TITLE LOAN DISCLOSURES.

3 28 1. A person who provides a loan of money secured by a  
3 29 certificate of title to a motor vehicle shall, prior to making  
3 30 the loan, provide to the borrower a notice written in clear,  
3 31 understandable language disclosing all of the following:

3 32 a. The fee to be charged for the transaction.

3 33 b. The annual percentage rate on the first hundred dollars  
3 34 on the face amount of the loan which the fee represents, and  
3 35 the annual percentage rate on subsequent one hundred dollar  
4 1 increments which the fee represents, if different.

4 2 c. Any penalty which the lender will charge if the  
4 3 borrower makes a payment with a check that is not negotiable  
4 4 on the date agreed upon. A penalty to be charged pursuant to  
4 5 this paragraph shall only be collected by the lender once on a  
4 6 check no matter how long the check remains unpaid. A penalty  
4 7 to be charged pursuant to this subsection is a lender's  
4 8 exclusive remedy and if a lender charges a penalty pursuant to  
4 9 this subsection, no other penalties under this chapter or any  
4 10 other provision shall apply.

4 11 2. In addition to the notice required by subsection 1, a  
4 12 person who provides a loan of money secured by a certificate  
4 13 of title to a motor vehicle shall conspicuously display a  
4 14 schedule of all fees, charges, and penalties for all services  
4 15 provided by the person as the lender. The notice shall be  
4 16 posted at the principal place of business and every branch  
4 17 office of the lender.

4 18 3. A loan of money secured by a certificate of title to a  
4 19 motor vehicle provided in violation of any provision of this  
4 20 section is null and void. A borrower who enters into a loan  
4 21 with a person who acts in violation of this section shall not  
4 22 be bound by the loan agreement, and the lender shall return to  
4 23 the borrower the titled personal property pledged or the fair  
4 24 market value of the titled property and all principal,  
4 25 interest, fees, and other charges paid by the borrower. The

4 26 borrower may commence a civil action to enforce this  
4 27 subsection in which the borrower is entitled to reasonable  
4 28 attorney fees, costs, and interest.  
4 29 4. This section shall not apply to a supervised financial  
4 30 organization.

4 31 EXPLANATION

4 32 This bill relates to the provision of delayed deposit  
4 33 services and vehicle title loans. The bill requires credit  
4 34 union service organizations as defined by the bill to be  
4 35 licensed and generally subject to the requirements of Code  
5 1 chapter 533D when engaging in the delayed deposit services  
5 2 business, commonly known as "payday loans".

5 3 The bill requires licensed delayed deposit services  
5 4 providers to require customers to initial next to the required  
5 5 disclosures relating to fees to be charged and the annual  
5 6 percentage rate.

5 7 The bill allows supervised financial organizations, as  
5 8 defined by Code section 537.1301, to charge interest rates  
5 9 above 21 percent for delayed deposit services transactions.  
5 10 The bill amends the definition of "superintendent" in Code  
5 11 chapter 533D so that "superintendent" may mean the  
5 12 superintendent of banking, the superintendent of credit  
5 13 unions, or the superintendent of savings and loan  
5 14 associations, depending on the entity that is engaging in the  
5 15 delayed deposit services business. Generally, the  
5 16 superintendent of banking will continue to license all delayed  
5 17 deposit services providers who are not credit unions, credit  
5 18 union services organizations, or savings and loan  
5 19 associations.

5 20 The bill requires the superintendent of banking, the  
5 21 superintendent of credit unions, and the superintendent of  
5 22 savings and loan associations to adopt rules to make  
5 23 applicable the requirements relating to fee restrictions,  
5 24 disclosures, and prohibited acts of Code sections 533D.9 and  
5 25 533D.10 to supervised financial organizations, as applicable.

5 26 The bill clarifies that state banks, credit unions, and  
5 27 savings and loan associations may engage in the delayed  
5 28 deposit services business.

5 29 The bill requires persons who provide loans secured by a  
5 30 certificate of title to a motor vehicle, except for supervised  
5 31 financial organizations, to make certain written disclosures  
5 32 prior to providing the loan. The lender must disclose the fee  
5 33 being charged for the loan transaction and give the annual  
5 34 percentage rate for each \$100 increment of the loan if the  
5 35 rate is different for additional \$100 increments. The lender  
6 1 must also disclose what penalty the lender will charge for a  
6 2 returned check, which may only be collected one time  
6 3 regardless of how long the check remains unpaid. The lender  
6 4 must also display a schedule of all fees, charges, and  
6 5 penalties for all services provided at each office of the  
6 6 lender. A loan provided without the required disclosures is  
6 7 null and void and the borrower is not obligated to pay the  
6 8 loan. A lender who provides a loan secured by a certificate  
6 9 of title to a motor vehicle without the required disclosures  
6 10 shall return the certificate of title pledged and all loan  
6 11 payments, interest, and other fees and charges paid by the  
6 12 borrower or the borrower may file a civil action for such  
6 13 items plus attorney fees, costs, and interest.

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